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OFFICE OF THE SECRETARY

May 26, 2000

Magalie Roman Salas
Secretary
Federal Communications Commission
1919 M Street, N.W.
Washington, D.C. 20554

Re: PP Docket No. 00-67

Dear Ms. Salas:

We herewith submit on behalf of the Association of Local Television Stations, Inc., four copies of our comments in the above-captioned proceeding. We have been advised by the Commission staff that the electronically filed version of these comments is unreadable. Therefore, we are complying with the staff's suggestion that we refile paper copies to assure that the Commission has readable copies available.

If the Commission has any questions about this matter, please, do not hesitate to contact us.

Very truly yours,

James L. Popham
Vice President, General Counsel

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**Before the
Federal Communications Commission
Washington, D.C.**

In the matter of

Compatibility Between Cable Systems
And Consumer Electronics Equipment

PP Docket No. 00-67

**COMMENTS OF
THE ASSOCIATION OF LOCAL TELEVISION STATIONS, INC.**

The Association of Local Television Stations, Inc. ("ALTV"), hereby submits its comments in response to the Commission's *Notice of Proposed Rulemaking* in the above-captioned proceeding.¹ ALTV is a non-profit, incorporated association of local television stations that are not affiliated with the ABC, CBS, or NBC television networks. Many of ALTV's member stations already have constructed and commenced operation with their digital transmission facilities.² Those not subject to the previous deadline, of course, remain subject to the Commission's May 1, 2002, deadline for initiation of digital broadcasting.

All local television stations have a vital interest in this proceeding. Unless cable subscribers can view the signals broadcast by local television stations, the economic

¹ FCC 00-137 (released April 14, 2000) [hereinafter cited as *Notice*]

² *E.g.*, KTLA-DT, Los Angeles; KCOP-DT, Los Angeles; KBHK-DT, San Francisco; WHSH-DT, Boston; KTXL-DT, Sacramento; and WXIN-DT, Indianapolis.

foundation of their digital broadcast service will be eroded severely. Cable passes over 90 per cent of television households and provides service to nearly 70 per cent of television households.³ If local television stations' digital signals cannot reach 70 per cent of their potential audiences, then digital broadcast television will be stillborn.⁴ ALTV, therefore, has urged prompt adoption of "must carry" rules requiring cable carriage of local television stations' digital and analog signals during the transition.⁵ Cable carriage, however, will accomplish little if consumers' video monitors and receivers are incompatible with cable systems. Therefore, local television stations have every interest in prompt resolution of all outstanding issues with respect to compatibility of consumer electronics and cable systems.

ALTV posits that the Commission ought to proceed as quickly as possibly to resolve any and all outstanding issues relating to compatibility of consumer electronics equipment and cable television systems. First, the Commission no longer may rely on marketplace dynamics to assure a timely transition from analog to digital broadcast television.⁶ As of today, the Commission's reliance on marketplace incentives appears

³ *Sixth Annual Report*, 15 FCC Rcd 978, 988-989 (2000).

⁴ For a more detailed explanation of the critical nature of cable carriage to the success of a local television station's digital broadcasting service, see Comments of the Association of Local Television Stations, Inc., CS Docket No. 98-120.

⁵ *Id.* As recently observed by in *Time Warner v. FCC*, No. 96-5272 (DC Cir., decided May 19, 2000), 2000 U.S. app. LEXIS 11032 at 21*-22*, "A cable operator is unlike a newspaper publisher, however, in the one respect crucial to the Congress's reason for enacting the channel occupancy provision: A newspaper publisher does not have the ability to exclude competing publications from its subscribers' homes. The cable operator's bottleneck monopoly is physical and economic barrier to such intra-medium competition."

⁶ In this regard, ALTV notes that local television stations' decisions to provide digital broadcast services are not the product of marketplace dynamics. They are decreed by the Commission's regulatory timetable. Regardless of the number of digital sets in consumer

unjustified. For whatever reason, marketplace incentives have not produced a result necessary to facilitate the desired level of progress in the digital transition to date. The cable and consumer electronics industries simply have not had sufficient marketplace incentives to finalize the necessary standards.⁷

Second, just as the near universal lack of cable carriage of local television stations' digital signals demands prompt adoption of digital must carry rules, the failure of private negotiations to establish necessary standards in the realms of cable compatibility and copy protection demands immediate Commission action. None of this is to deny that private actions in the interim may render government action unnecessary or suggest that governmental intervention would be preferable to private resolution of the issue. However, as of today, private resolution of critical issues is incomplete. As a result, the digital transition is at a standstill. Consumers are reluctant to purchase video monitors and receivers that might well become obsolete in the near term because they will be incompatible with cable systems. For the same reason, manufacturers worry about placing a pool of legacy sets in the hands of soon-to-be dissatisfied consumers. Therefore, the Commission must signal its intention to step in. Moreover, it must place itself in a position to step in decisively and effectively.

living rooms or the supply of programming readily available, local television stations must commence digital broadcast operations by a set regulatory deadline.

⁷ ALTV would observe that the current cable industry model for digital deployment appears more like the satellite model than the broadcast model. Cable systems are using digital transmission to gain capacity. The digital transmission, however, is downconverted to an NTSC signal at the set top. No new digital monitor or receiver is required. The lack of compatibility standards for digital cable systems and consumer electronics is of no moment. Consistent with this approach, few cable programmers are offering any HDTV programming. Broadcast stations and networks on the other hand are providing a digital signal for direct reception and viewing and, consistent with that model, are providing HDTV programming in more considerable amounts.

Decisive Commission action is particularly essential in the case of the digital television transition. A successful and expeditious transition depends on a number of interrelated dynamics.⁸ If any of the gears jam, then the entire process grinds to a halt. This is precisely why the digital transition is languishing today. Several significant gears are jammed. First, local television stations have no significant audience for their digital programming services. They are broadcasting digital signals, but access to those signals is severely limited. Cable subscribers are reticent to purchase digital sets because compatibility with their local cable system is uncertain. Consumers without digital sets not only are unable to view cable provided digital services, but also necessarily are unable to receive and view digital signals available off the air from local television stations. With few digital sets in consumer homes, local television stations and their networks find returns on their mandated investments in digital facilities all, but non-existent. This in turn discourages investment in the types of programming likely to attract viewers to tune in to digital programming – and to buy digital sets.⁹ The absence of television set sales eliminates the economies of scale which will result in lower set prices, which in turn increase sales, leading to greater economies of scale and so on. In essence, the Commission is requiring local television stations to prime the pump, but then furnishing no water to keep the flow going.

Second, the lack of a copy protection regime only compounds the disincentive on the part of program producers to produce or distribute digital programming. With no

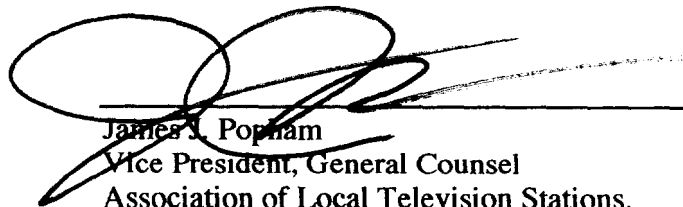
⁸ See Haring, John, Strategic Policy Research, *The Economic Case for Digital Broadcast Carriage Requirements* (October, 13, 1998), submitted in conjunction with the Comments of ALTV, *supra*.

⁹ It also creates no real incentive for producers to produce programming for digital and HDTV. See Haring, *supra*.

assurance that program material will be protected from further distribution without authorization, program producers have every reason to withhold product from digital broadcast service. Again, however, the supply of a critical ingredient to the success of the digital broadcast transition is being choked off by lack of standards. The successful launch and ultimate survival of digital broadcast television depends on content producers' continuing to provide high quality programming to local television stations. Content producers will continue to do so, however, only if they are assured that such programming on broadcast television – whether received over the air or via cable or satellite – will not be copied and retransmitted worldwide without consent via the Internet. Without the assurances of protection for content, premium quality programming will migrate to cable channels, where copy protection will help ensure that content producers can control the distribution of their product.

In view of the above, ALTV urges the Commission to take appropriate actions to encourage and facilitate adoption of cable compatibility standards.

Respectfully submitted,



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Inc.
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May 24, 2000



Federal Communications Commission

**The FCC Acknowledges Receipt of Comments From ...
Association of Local Television Stations, Inc.
...and Thank You for Your Comments**

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